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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,451	10/16/2003	Richard J. Ernst	14303	8743

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EXAMINER	
EPPS, TODD MICHAEL	
ART UNIT	**PAPER NUMBER**
3632	

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/687,451	ERNST ET AL.	
	Examiner	Art Unit	
	Todd M. Epps	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 January 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) *3-7,9-11,13,16-25 and 27-30* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,8,12,14,15,26 and 31-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

This is the second Office Action **final** for serial number 10/687,451, Rod Hanger For Securing A Rod To A Substrate, filed on October 16, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claims 1-2, 8, 12, 26, and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,758,465 to Logue in view of U.S. Patent No. 4,543,763 to Ernst et al. (Ernst).

Logue '465 discloses a rod hanger (fig. 5) comprising a generally planar mounting portion (24) defining a perimeter edge, and having a hole (52) along extending between a top surface (40) and a bottom surface (44) with the hole extending therebetween, a generally planar rod receiving portion (34) with a top surface (42), a bottom surface (46) and a hole (60) that includes a lip formation (64) disposed thereabout, and a connecting element (36), wherein the planes of the mounting and rod receiving portions are generally parallel, wherein rod receiving portion configured for threadably receiving the rod, wherein the rod hanger defines a unitary body with generally uniform thickness, wherein the hole of the mounting portion is coincident

along the plane, has a radius and defines a circumference of 360 degrees, wherein the mounting portion has four corners.

However, Logue '465 fails to specifically teach at least four anti-rotation elements on generally planar top surface of the mounting portion plane uniformly spaced from the hole, and wherein four anti-rotation members are configured for penetrating the substrate. Nevertheless, Ernst '763 teaches a mounting portion (fig. 4, 6) with a central hole and four anti-rotation elements (22) disposed about the hole and spaced apart from each other by about 90 degrees along the circumference of the hole and dispose proximate to each of the corners of the mounting portion, and wherein four anti-rotation members are configured for penetrating the substrate (fig. 1). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hanger of Logue '465 with four anti-rotation elements disposed about the hole and spaced apart from each other by about 90 degrees along the circumference of the hole and dispose proximate to each of the corners of the mounting portion as in Ernst '763 wherein doing so would provide for superior rotation prevention means.

Claims 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,758,465 to Logue in view of U.S. Patent No. 4,543,763 to Ernst et al. (Ernst), and further in view of U.S. Patent No. 6,205,730 to Hasan et al. (Hasan).

Regarding claims 14-15, Logue'465 in view of Ernst '763 disclose the previous invention failing to specifically teach four anti-rotation elements have a generally

hemisphered shape. However, Hasan '730 teaches a mounting portion/bracket (fig. 1,3) that mounts against a surface including a central hole (26) along with two hemispherical anti-rotation elements (42) on the top surface of the mounting portion plate uniformly spaced along the plane in a radial direction from the hole. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included rod hanger of Logue '465 in view of Ernst '763 with four anti-rotation elements and the hemispherical anti-rotation elements of Hasan '730 wherein doing so would provide thereof for a more stable hanger by preventing rotation or twisting of the mounting portion during mounting of the fastener through the hole and into a mounting surface. Further regarding claim 15, although the anti-rotation elements of Hasan '730 might not be interpreted as having the shape of a generally truncated cone, it would have been obvious to make the anti-rotation elements of any shapes, so long as they continue to provide the anti-rotation function without puncturing the mounting surface.

Claims 31-32, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,758,465 to Logue in view of U.S. Patent No. 4,543,763 to Ernst et al. (Ernst), further in view of U.S. Patent No. 6,205,730 to Hasan et al. (Hasan), and further in view of U.S. Patent No. 6,481,680 to Neuman.

Logue '465 in view of Ernst '763, and further in view of Hasan '730 fails to specifically teach wherein at least four anti-rotation members include a resilient cover, is secured by a chemical adhesive, and the resilient cover is formed of a polymer. Nevertheless, Neuman '680 teaches wherein a bracket is covered with polymer and is

secured by an adhesive on one side thereof. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included rod hanger of Logue '465 in view of Ernst '763, and further in view of Hasan '730 with the hemispherical anti-rotation elements and to include a polymer cover with an adhesive as taught by Neuman '680 wherein doing so would provide thereof for a protective coating on the anti-rotation members with a superior mounting means for supporting a rod.

Response to Arguments

Applicant's arguments filed January 6, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the claims require elements not disclosed or suggested by the references, and the references are not properly combined to teach or suggest all of the claimed requirements. The Examiner clearly disagrees. The applicant will see that the above references combined do in fact teach all of the elements or features.

It is noted that the base reference of Logue '465 with rod hanger have all of the features except for four anti-rotation elements on generally planar top surface of the mounting portion, and wherein at least four anti-rotation elements have a generally hemisphered shape.

Attention is directed to Ernst '763 reference, which teaches a mounting portion (fig. 4, 6) with a central hole and four anti-rotation elements (22) disposed about the

hole and spaced apart from each other by about 90 degrees along the circumference of the hole and dispose proximate to each of the corners of the mounting portion, and wherein four anti-rotation members are configured for penetrating the substrate (fig. 1). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the rod hanger of Logue '465 with four anti-rotation elements disposed about the hole and spaced apart from each other by about 90 degrees along the circumference of the hole and dispose proximate to each of the corners of the mounting portion as taught in Ernst '763 wherein doing so as to provide for superior rotation prevention means.

Furthermore, the applicant will see that the references of Logue '465 in view of Ernst '763 fail to teach wherein four anti-rotation elements have a generally hemisphered shape. However, Hasan '730 teaches a mounting portion/bracket that mounts against a surface including a central hole along with two hemispherical anti-rotation elements. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included rod hanger of Logue '465 in view of Ernst '763 with four anti-rotation elements and the hemispherical anti-rotation elements of Hasan '730 wherein doing so would provide thereof for a more stable hanger by preventing rotation or twisting of the mounting portion during mounting of the fastener through the hole and into a mounting surface

The motivation for the obvious rejection as stated above with the combination of references selected by the Examiner to support the obviousness rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd M. Epps
Patent Examiner
Art Unit 3632
March 17, 2006

A. Joseph Wujciak
Primary Examiner
Art Unit 3632